

A proposal to amend the State Constitution regarding collective bargaining. (Proposal provided under an initiative petition filed with the Secretary of State on June 13, 2012.)

The proposal would add a new Section 28 to Article 1 of the State Constitution and amend existing Section 5 of Article 11 to read as follows:

Section 28. (1) The people shall have the rights to organize together to form, join or assist labor organizations, and to bargain collectively with a public or private employer through an exclusive representative of the employees' choosing, to the fullest extent not preempted by the laws of the United States.

(2) As used in subsection (1), to bargain collectively is to perform the mutual obligation of the employer and the exclusive representative of the employees to negotiate in good faith regarding wages, hours, and other terms and conditions of employment, and to execute and comply with any agreement reached; but this obligation does not compel either party to agree to a proposal or make a concession.

(3) No existing or future law of the state or its political subdivisions shall abridge, impair or limit the foregoing rights; provided that the state may prohibit or restrict strikes by employees of the state and its political subdivisions. The legislature's exercise of its power to enact laws relative to the hours and conditions of employment shall not abridge, impair or limit the right to collectively bargain for wages, hours, and other terms and conditions of employment that exceed minimum levels established by the legislature.

(4) No existing or future law of the state or its political subdivisions shall impair, restrict or limit the negotiation and enforcement of any collectively bargained agreement with a public or private employer respecting financial support by employees of their collective bargaining representative according to the terms of that agreement.

(5) For purposes of this section, "employee" means a person who works for any employer for compensation, and "employer" means a person or entity employing one or more employees.

(6) This section and each part thereof shall be self-executing. If any part of this section is found to be in conflict with or preempted by the United States Constitution or federal law, such part shall be severable from the remainder of this section, and such part and the remainder of this section shall be effective to the fullest extent that the United States Constitution and federal law permit.

(The proposal would also amend Section 5 of Article 11 of the State Constitution. The proposed addition to Section 5 of Article 11 is indicated in italics.)

Section 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

*Classified state civil service employees shall, through their exclusive representative, have the right to bargain collectively with their employer concerning conditions of their employment, compensation, hours, working conditions, retirement, pensions, and other aspects of employment except promotions, which will be determined by competitive examination and performance on the basis of merit, efficiency, and fitness.*

State Police Troopers and Sergeants shall, through their elected representative designated by 50% of such troopers and sergeants, have the right to bargain collectively with their employer concerning conditions of their employment, compensation, hours, working conditions, retirement, pensions, and other aspects of employment except promotions which will be determined by competitive examination and performance on the basis of merit, efficiency and fitness; and they shall have the right 30 days after commencement of such bargaining to submit any unresolved disputes to binding arbitration for the resolution thereof the same as now provided by law for Public Police and Fire Departments.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.